

1 WILLARD K. TOM
General Counsel

2 KAREN D. DODGE
3 kdodge@ftc.gov
4 MARISSA J. REICH
mreich@ftc.gov
Federal Trade Commission
5 55 West Monroe Street, Suite 1825
Chicago, Illinois 60603
6 (312) 960-5634 (Telephone)
(312) 960-5600 (Facsimile)

7 RAYMOND E. McKOWN
8 Cal. Bar No. 150975, rmckown@ftc.gov
Federal Trade Commission
9 10877 Wilshire Boulevard, Suite 700
Los Angeles, California 90024
10 (310) 824-4343 (Telephone)
(310) 824-4380 (Facsimile)

11 Attorneys for Plaintiff
12 FEDERAL TRADE COMMISSION

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

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16 FEDERAL TRADE COMMISSION,
17 Plaintiff,

18 v.
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20 AMERICAN TAX RELIEF LLC, d/b/a
American Tax Relief, *et al.*,

21 Defendants, and

22 YOUNG SOON PARK, a/k/a
23 Young S. Son, *et al.*,

24 Relief Defendants.
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Case No. CV 11-6397 DSF (Ex)

**NOTICE OF MOTION AND
MOTION FOR SUMMARY
JUDGMENT ON ALL COUNTS
AGAINST ALL DEFENDANTS
AND RELIEF DEFENDANTS;
OR, IN THE ALTERNATIVE,
FOR SUMMARY
ADJUDICATION OF CLAIMS**

Date: August 6, 2012
Time: 1:30 p.m.
Ctrm: 840 (Roybal Federal Bldg.)

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1 TO DEFENDANTS, RELIEF DEFENDANTS, AND ALL OTHER
2 INTERESTED PARTIES:

3 Please take notice that pursuant to this Court's June 4, 2012 Order (Dkt.
4 No. 305), on August 6, 2012, or as soon thereafter as counsel may be heard by the
5 Court, Plaintiff Federal Trade Commission ("FTC") will and hereby does move
6 the Court for summary judgment against Defendants American Tax Relief LLC,
7 Alexander Seung Park, and Joo Hyun Park, as to Counts One, Two, and Three of
8 Plaintiff's Complaint, and against Relief Defendants Young Soon Park and Il Kon
9 Park, as to Count Four of Plaintiff's Complaint, or, in the alternative, for summary
10 adjudication of claims.

11 Plaintiff seeks summary judgment on the grounds that there is no genuine
12 issue as to any material fact and that Plaintiff is entitled to judgment as a matter of
13 law for the following reasons:

14 1. Section 5 of the FTC Act, 15 U.S.C. § 45, prohibits unfair and
15 deceptive acts and practices in or affecting commerce.

16 2. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes the Court
17 to grant equitable relief, including injunctive and monetary relief, for violations of
18 Section 5 of the FTC Act.

19 3. As alleged in Complaint Count One, Defendants have violated
20 Section 5 of the FTC Act by misrepresenting that Defendants have significantly
21 reduced the tax debts of thousands of people.

22 4. As alleged in Complaint Count Two, Defendants have violated
23 Section 5 by misrepresenting that consumers qualify for a tax relief program,
24 including, but not limited to, an Offer in Compromise or a Penalty Abatement;
25 and that by purchasing Defendants' services, consumers will be able to obtain a
26 settlement that significantly reduces their total tax debts.

27 5. As alleged in Complaint Count Three, Defendants have violated
28 Section 5 by causing consumers' bank accounts to be debited, or consumers'

1 credit cards to be charged, without first obtaining consumers' express informed
2 consent.

3 6. As alleged in Complaint Count Four, Relief Defendants hold funds
4 and assets in constructive trust for the Defendants' customers because they:

5 (a) have received, directly or indirectly, funds or other assets from
6 Defendants that are traceable to funds obtained from
7 Defendants' through the deceptive and unfair acts or practices;
8 and

9 (b) are not bona fide purchasers with legal and equitable title to
10 Defendants' customers' funds or other assets, and Relief
11 Defendants will be unjustly enriched if they are not required to
12 disgorge the funds or the value of the benefit they received as a
13 result of Defendants' deceptive and unfair acts or practices.

14 7. Other reasons as set forth in the accompanying Memorandum of
15 Points and Authorities, and as previously identified in other court filings in which
16 Plaintiff has described the grounds on which it seeks relief.

17 This motion is based on this Notice of Motion and Motion; on the
18 accompanying Memorandum of Points and Authorities and Statements of
19 Uncontroverted Facts and Conclusions of Law; on the accompanying declarations
20 and exhibits; on the declarations and exhibits filed by the FTC in support of the
21 FTC's motions for temporary restraining order and preliminary injunction; on
22 deposition testimony and discovery responses lodged or filed in conjunction with
23 this Motion; on all pleadings and other documents on file in this action; and on
24 such other matters as may be presented to the Court at the time of the hearing.

25 The FTC seeks the relief proposed in the accompanying [Proposed] Final
26 Judgment for Permanent Injunction and other Equitable Relief Against
27 Defendants American Tax Relief LLC, Alexander Seung Hahn, and Joo Hyun
28 Park and Relief Defendants Young Soon Park and Il Kon Park.

1 This motion is made following the conference of counsel pursuant to L.R.
2 7-3, which took place on or about May 29, 2012.

3 Should the Court not grant summary judgment on all claims against all
4 Defendants and Relief Defendants, Plaintiff requests that, pursuant to Rule 56(g)
5 of the Federal Rules of Civil Procedure, the Court enter an order that states each
6 material fact (including any items relating to equitable monetary relief) that the
7 Court finds is not genuinely in dispute and which treats the fact as established in
8 the case.

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10 Dated: June 8, 2012

Respectfully Submitted,

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/s/Karen D. Dodge
KAREN D. DODGE
MARISSA J. REICH
Attorneys for Plaintiff
Federal Trade Commission

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